

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(a). Summary dispositions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

DARCY MATTHEW TYONE,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13553
Trial Court No. 4FA-19-00120 CR

SUMMARY DISPOSITION

No. 0312 — February 22, 2023

Appeal from the Superior Court, Fourth Judicial District,
Fairbanks, Matthew C. Christian, Judge.

Appearances: George W.P. Madeira Jr., Assistant Public
Defender, and Samantha Cherot, Public Defender, Anchorage,
for the Appellant. Seneca Theno Freitag, Assistant Attorney
General, Office of Criminal Appeals, Anchorage, and Treg R.
Taylor, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, and Wollenberg and Harbison,
Judges.

Darcy Matthew Tyone was convicted of fourth-degree assault for placing Lunar Chin, an apartment building manager, in fear of imminent physical injury, and second-degree assault for attacking Robert Binder, a resident of the building who was in his early seventies.¹ Tyone appeals his convictions, raising two issues.

¹ AS 11.41.230(a)(3) and AS 11.41.210(a)(1), respectively.

First, Tyone argues that the evidence was insufficient to support his conviction for fourth-degree assault against Chin.

When a defendant challenges the sufficiency of the evidence to support a criminal conviction, we view the evidence, and all reasonable inferences arising from that evidence, in the light most favorable to upholding the verdict.² We then ask whether a reasonable juror could find that the defendant was guilty beyond a reasonable doubt.³

Viewed in the light most favorable to upholding the verdict, the evidence established that Tyone was sleeping in the stairwell of an apartment building when Chin attempted to wake him up to ask him to leave the property. Chin was accompanied by Binder. Chin and Tyone knew each other, and Chin initially attempted to wake Tyone by calling his name and telling him he needed to leave.

When Tyone did not wake up, Binder grabbed Tyone by the ankles. Tyone then woke up, and he appeared “drunk” and “cranky.” He pushed Chin, causing her to fall and hurt her back. Binder next tried to hold Tyone, who threatened to hurt Binder and began striking him. Binder testified that he initially thought Tyone was punching him, until he realized that he (*i.e.*, Binder) was covered in blood. Chin testified that she saw the blood and screamed. At some point Tyone fled, yelling, “I’m going to hurt you guys,” before he departed.

After Tyone left, Binder realized that the blood was coming from a severe gash on his forearm. A short while later, the police apprehended Tyone, who was carrying two pocket knives on his person.

On appeal, Tyone argues that this evidence was insufficient to establish that Chin was placed in fear of imminent physical injury. Tyone relies primarily on the fact

² *Johnson v. State*, 188 P.3d 700, 702 (Alaska App. 2008).

³ *Id.*

that Chin never specifically testified that she was in fear of imminent physical injury. But viewed in the light most favorable to the jury's verdict, the evidence established that Tyone pushed Chin, causing her to fall and hurt her back; that Chin screamed when she saw the blood; and that Tyone yelled, "I'm going to hurt you guys." Even without direct testimony from Chin, this evidence was sufficient for a reasonable juror to infer that Chin was placed in fear of imminent physical injury.

Second, Tyone argues that the evidence was insufficient to disprove his claim that he was acting in self-defense. But given the evidence we have just described, it is clear that a reasonable juror could conclude that Tyone was acting out of drunkenness and anger, not a reasonable belief that he needed to use force to defend himself.⁴

The judgment of the superior court is AFFIRMED.

⁴ See AS 11.81.330(a).